

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN

10

Jimmy McWherter

Case No.

Petitioner

15-20004

V.

United States of America

Respondent

EMERGENCY MOTION FOR IMMEDIATE RULING

ON PENDING MOTION DUE TO SEVERE OUTBREAK OF COVID-19

Petitioner has a pending motion before this court in regards to compassionate release or reassignment of custody from the Camp at Loretto to home detention for the balance of his sentence. Prior to this week, there have been only a handful of active cases in the Low (approximately 100 yards from the camp) and no active cases at the camp. That has changed dramatically.

As of this writing, the FCI and the satellite camp (FPC Loretto) are locked down. The medical staff doing the testing in the satellite camp stated that there were over 300 confirmed cases in the FCI and that when the latest round of testing is returned she expected that number to increase significantly. In the satellite camp, rapid testing and the three day testing were

completed on the same day, Wednesday November 24, (the day before Thanksgiving). One inmate tested positive. However, the medical staff did not inform that inmate (Puebela) nor did they isolate him from the rest of the camp. Instead, the medical staff left that inmate in the general population of the camp, until Monday, November 30th, after the Thanksgiving holidays. The medical staff at Loretto had over seven months to prepare for an inmate at the Satellite camp contracting COVID-19 and they did nothing.

On Monday, November 30th, for the first time they did something. They divided the dorm in half, placing plastic between the two sections of the dorm and placed the infected inmate and three inmates who sleep around him in quarantine. The rest of the camp was compacted into one half of the dorm. 42 inmates sleeping 3 feet apart, each with a bunkmate. The total square footage for 42 men, 1,600. (See floor plan exhibit 1). The camp inmate population is compressed into less than 20% of the space normally available to them. Inmates cannot even go outside. **This is exactly the opposite of CDC guidelines in regards to social distancing.** Twenty four/seven, inmates are within four feet of numerous other inmates. Social distancing is impossible. On Thursday, December 2 (8 days after his initial positive test) the BOP staff moved Puebla back over to the side with the other 42 inmates. The medical staff at Loretto is playing Russian roulette with inmate's lives, some of whom have serious medical conditions which, per the CDC guidelines make contracting COVID for them, a likely death sentence.

Should the Camp be able to dodge this current bullet of COVID infection there is no doubt that there will be additional infection at the camp in the near future. COVID-19 is rampant throughout this county (Cambria) so staff is constantly exposed to COVID. Puebela's staff supervisor contracted COVID, thus, common sense would say that Puebela contracted it from the staff member. As of this writing, dozens of staff members have tested positive for COVID. There are six units in the Low, all of which currently have active COVID-19 cases. In each unit, one guard is assigned. There are numerous counts throughout the day. BOP regulations state that two guards must count. So, a compound officer is used to do those counts. The compound officer goes to every single unit in the Low and then to the camp unit during this count. So numerous times each day, a compound officer is potentially bringing COVID from the Low to the camp. Twice a day, medical staff come from the Low to the camp to administer medications (pill line). These medical staff are in direct contact with the most infected inmates in the Low. Commissary, food and other items are transferred from the Low to inmates at the Camp. Therefore, it is only a matter of time before COVID again comes to the camp.

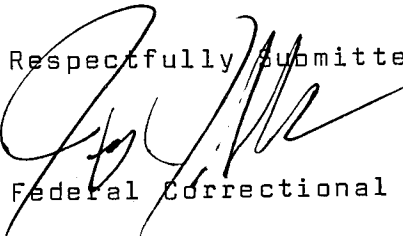
There has been widespread reporting of the BOP under reporting the number of positive COVID-19 cases. This is true of F.C.I. Loretto as well. If this Court will review the BOP website for the number of active cases and will review the Cambria County Health Department web site for active cases in F.C.I. Loretto it will

most likely find two different numbers of active cases. This has been the standard policy for F.C.I. Loretto throughout the pandemic.

These outbreaks and the inability of prison staff to handle them is not limited to Loretto. This problem is in every prison in the United States. Science Magazine a highly respected journal released a report July 19, 2020, stating in part. "prisoners were 5.5 more likely to be diagnosed with the novel coronavirus than members of the general public" (See complete article exhibit two). The Wall Street Journal on 11/28/2020 stated, "The coronavirus has continued to spread widely in detention facilities, despite officials taking a host of measures to contain it." (See full article exhibit three).

For all of the above reasons, Petitioner humbly asks that this court rule immediately on his motion.

Respectfully submitted;



Federal Correctional Institution

P.O. Box 1000

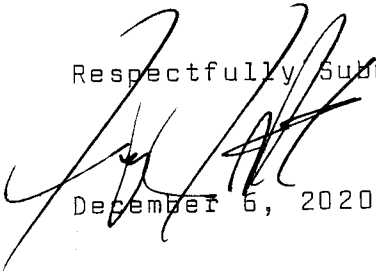
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Certificate of service

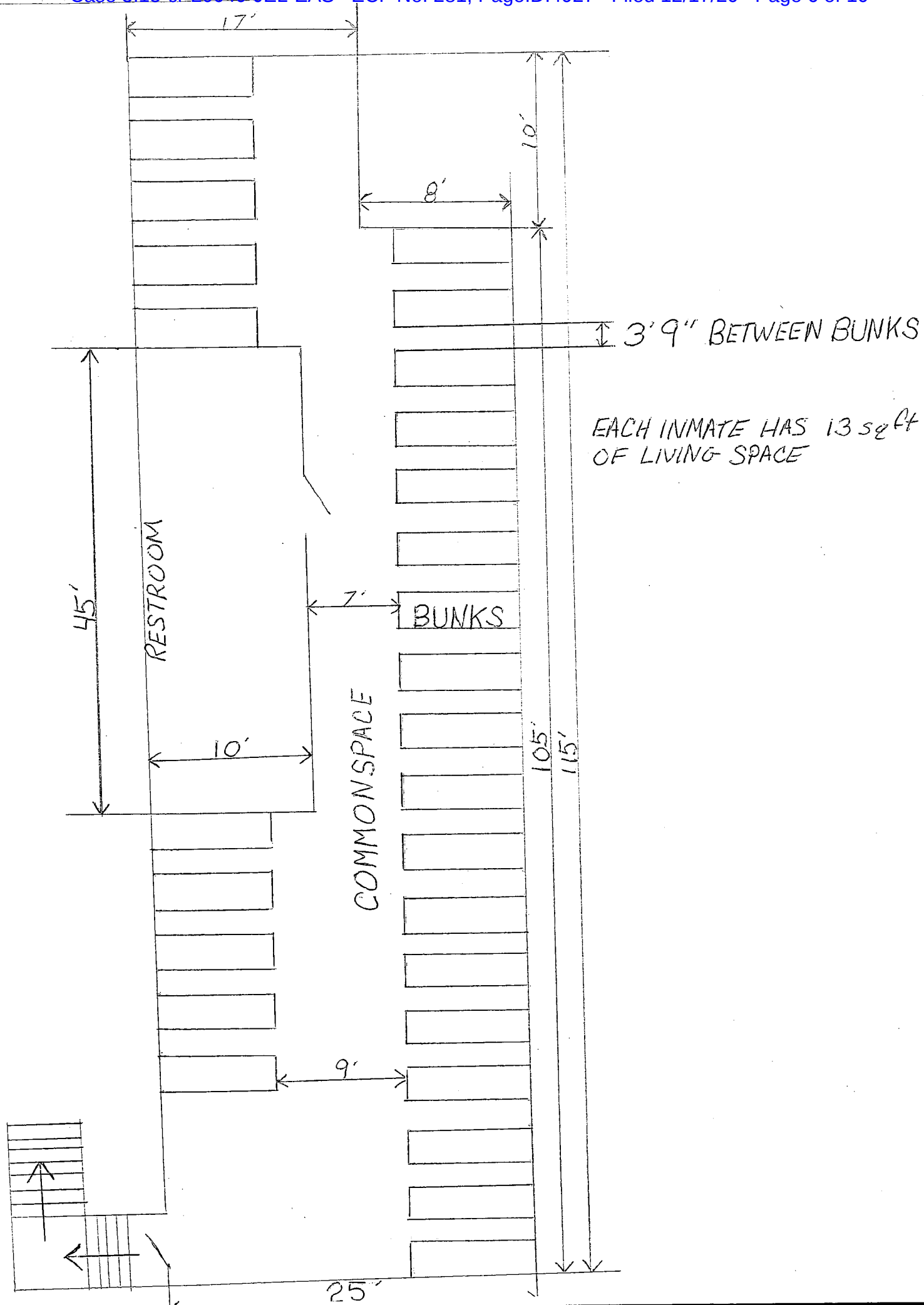
Petitioner hereby certifies that he has mailed this motion to the

clerk of courts for electronic filing and that the Government will  
be notified electronically.

Respectfully Submitted;

A handwritten signature in black ink, appearing to be "J. H. H.", is written over the text "Respectfully Submitted;" and the date.

December 6, 2020

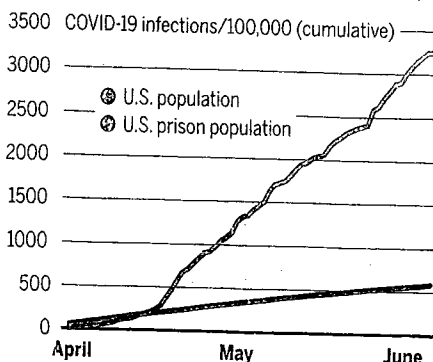


## Coronavirus spikes in prisons

**PUBLIC HEALTH** | As COVID-19 cases soar in vulnerable communities across the United States, another group is seeing its numbers spike: inmates in state and federal prisons. A new study, using testing data from the U.S. Centers for Disease Control and Prevention, the Federal Bureau of Prisons, and state departments of corrections, found that—from 31 March to 6 June—prisoners were 5.5 times more likely to be diagnosed with the novel coronavirus than members of the general public, with cumulative infection rates of 3251 per 100,000 and 587 per 100,000, respectively (see chart, right). The study, published 8 July in *JAMA*, also found a higher rate of COVID-19 related deaths among U.S. prisoners—39 deaths per 100,000 compared with 29 deaths per 100,000 in the general public. Because prisoners tend to be younger, researchers say, the gap in deaths is lower than the gap in infections.

## Too close for comfort

Crowding, high rates of chronic health conditions, and limited access to personal protective equipment are likely contributors to cumulative infection rates in U.S. prisoners that are 5.5 times higher than in the general U.S. population.



radar, which penetrates through snow to the ice beneath, whereas the newer ICESat-2, launched in 2018, uses reflected lasers that bounce off the top of the snow. CryoSat-2's raised orbit will allow the spacecraft to measure the same polar ice as ICESat-2 every 1.5 days. That will be especially useful in the Antarctic, where sea ice may be blanketed in a confounding layer of snow up to 2 meters high. The maneuver was set to begin on 16 July, and will be completed prior to the annual Arctic sea ice minimum in September.

## Red alga imperils Hawaii's reefs

**BIODIVERSITY** | A mysterious red alga is rapidly spreading on coral reefs near the northwestern islands of Hawaii, blocking sunlight and smothering marine life below. Scientists first observed the alga—which they propose is a new species—in 2016 in the Pearl and Hermes Atoll, an uninhabited area more than 2000 kilometers northwest of Honolulu. Three years later, they discovered that thick, matlike layers of the seaweed had covered large expanses of the atoll, killing corals and other algae. The new alga, which they have named *Chondria tumulosa*, does not appear to

## Big bucks for antibiotics

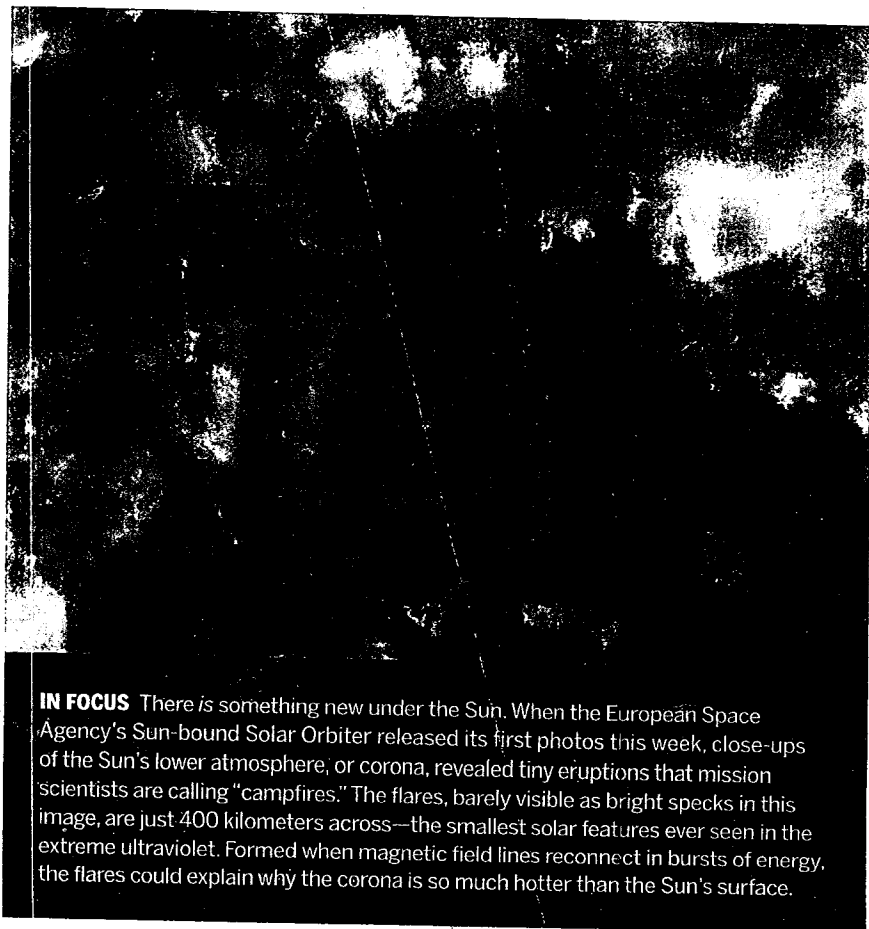
**BIOMEDICINE** | Some of the world's largest pharmaceutical companies have jointly set up a \$1 billion fund to help struggling biotech startups develop ways to combat the growing problem of antimicrobial resistance. The AMR Action Fund, which seeks to create two to four new antibiotics by the year 2030, was unveiled last week by giants such as Roche and Merck in partnership with the World Health Organization. Although the world is in dire need of new antibiotics, it has been hard to get investors to fund corporate efforts to find or synthesize them. That's because new antibiotics are generally reserved for resistant infections—and are given for short courses—making them less profitable than other drugs.

## Ice-measuring satellites align

**GLACIOLOGY** | The European Space Agency was set this week to raise the orbit of its aging ice measuring satellite, CryoSat-2, by nearly 1 kilometer to align it with NASA's ICESat-2 mission. Combining the satellites' data will offer unprecedented insight into the thickness—and vulnerability—of sea ice at the poles. CryoSat-2 uses reflected

## First full-sequencing success

**GENETICS** | Even the most fully sequenced human genome is riddled with gaps, often because long stretches of repetitive DNA befuddle sequencing machines. By using diverse methods to sequence and arrange that DNA in the right order, researchers have closed all 29 gaps in the X chromosome sequence. That chromosome is now the first to have end-to-end, or telomere-to-telomere, coverage, an important and long-sought step toward pinning down the genetic basis of disease. "It was hard," says project coordinator Karen Miga from the University of California, Santa Cruz. Other chromosomes will soon follow, though a few will have to await technological advances, she and her team report this week in *Nature*. Next up for full sequencing: chromosomes eight and six.



**IN FOCUS** There is something new under the Sun. When the European Space Agency's Sun-bound Solar Orbiter released its first photos this week, close-ups of the Sun's lower atmosphere, or corona, revealed tiny eruptions that mission scientists are calling "campfires." The flares, barely visible as bright specks in this image, are just 400 kilometers across—the smallest solar features ever seen in the extreme ultraviolet. Formed when magnetic field lines reconnect in bursts of energy, the flares could explain why the corona is so much hotter than the Sun's surface.

# Prisons Continue to Struggle With Containing Coronavirus

By TALAL ANSARI

Eight months into the coronavirus pandemic, prisons across the country are still grappling with how best to control a virus that is intensifying nationwide.

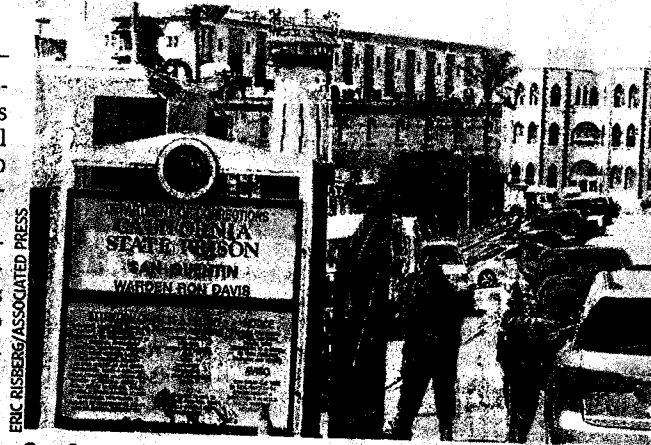
The coronavirus has continued to spread widely in detention facilities, despite officials taking a host of measures to stem it. Prisons have released thousands of inmates to ease overcrowding, stepped up health screenings among visitors and adopted protocols from the U.S. Centers for Disease Control and Prevention such as mask-wearing for inmates and staff.

The number of infections inside the nation's state and federal prison systems has varied over the past six months, largely mirroring the nationwide spread. Between April and June, prisons recorded an average of 17,700 new cases a month. That climbed to more than 30,000 new infections a month in July and August, before dipping slightly in September to 25,031, and 26,290 in October, according to the Covid Prison Project, a group made up of interdisciplinary public-health scientists from universities around the country tracking the virus's spread in correctional facilities.

Through mid-November, the U.S. prison system has already recorded more than 20,000 cases, putting it on track for the highest number of monthly cases since the pandemic began. Reporting standards vary among institutions and localities, meaning the exact number of infections could be higher.

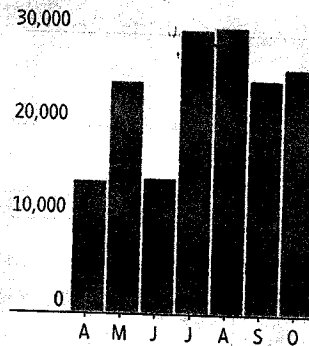
Health experts worry that Covid-19, combined with flu season, could soon overwhelm prison health resources.

"Prisons are going to continually be tested, with multiple Covid introductions, until we get this thing under control," said Zinzi Bailey, a social epidemiologist at the University of Miami's Miller School of Medicine.



San Quentin State Prison had a severe outbreak over the summer.

New Covid-19 cases per month in U.S. prisons



Source: Covid Prison Project

Limiting those introductions, or the ways in which a virus enters an enclosed environment like a prison, is a focus for prison officials. Court documents show the transfer of 121 inmates may have been to blame for a severe outbreak over the summer in California's San Quentin State Prison in which approximately 75% of inmates caught the virus.

The California Department of Corrections and Rehabilitation in August mandated that all prisoners transferred between institutions complete a quarantine. Some prisons without cases are conducting random testing of inmates and mandatory testing of all staff every two weeks. At facilities with increasing cases, staff is tested weekly and movement between housing units is limited as much as possible.

A recent outbreak at the Utah State Prison in Draper is believed to have been caused

by a visiting medical professional, according to a prison official.

"We don't have the option of sending everybody home," said Mike Haddon, executive director of the Utah Department of Corrections.

Early in the pandemic, to reduce risk, some prison systems sent low-level offenders and elderly or sickly inmates home.

California released more than 21,000 people, resulting in the lowest prison population in decades, said spokeswoman Dana Simas.

Even with mitigation measures in place, more than 212,000 inmates in the U.S. have contracted the virus since the pandemic began, according to the Covid Prison Project, which compiles data from prison systems in all 50 states and Puerto Rico, the Federal Bureau of Prisons and U.S. Immigration and Customs Enforcement, along with a number of jails.

Inmates have been infected at a rate that is more than four times that of the general population, data from the Covid Prison Project show.

Despite that, the case-fatality ratio, or the percentage of coronavirus cases that are fatal, is lower among inmates than the broader population. A total of 1,491 inmates have died since the start of the pandemic, which puts the case-fatality rate at about 0.7%. That figure is at 2.1% for the U.S. as a whole.

51518-039

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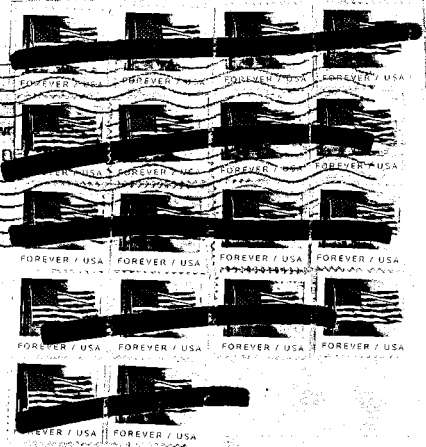
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